
OFFICER EMPLOYMENT PROCEDURE RULES

1.0 INTRODUCTION

1.1 Definitions

In these Rules:

- 1.1.1 “The 2001 Regulations” means the Local Authorities (Standing Orders) (England) Regulations 2001; “The 2015 Regulations” means the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 1.1.2 “Appointor” means, in relation to the appointment of a person as an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or Officer is discharging the function of appointment on behalf of the Authority, that Committee, Sub-Committee or Officer, as the case may be;
- 1.1.3 “Disciplinary Action” in relation to an Officer of the Council means any action occasioned by alleged misconduct which, if proven, would, according to the Council’s usual practice, be recorded on the member of staff’s personal file. This includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract;
- 1.1.4 “Dismissor” means, in relation to the dismissal of an Officer of the Authority, the Authority or, where a Committee, Sub-Committee or another Officer is discharging the function of dismissal on behalf of the Authority, that Committee, Sub-Committee or other Officer, as the case may be;
- 1.1.5 “Head of Paid Service” means the Officer designated under Section 4(1) of the Local Government and Housing Act 1989;
- 1.1.6 “Chief Finance Officer” means the Officer having responsibility, for the purposes of Section 151 of the Local Government Act 1972, for the administration of the Council’s financial affairs;
- 1.1.7 “Monitoring Officer” means the Officer designated under Section 5(1) of the Local Government and Housing Act 1989;
- 1.1.8 “Directors” means those Officers who shall report directly to the Chief Executive and shall have managerial responsibility for a directorate consisting of not less than 4 services;
- 1.1.9 “Statutory Chief Officer” means, for the purposes of these provisions, the Chief Finance Officer;
- 1.1.10 “Non-Statutory Chief Officer” means a person for whom the Head of Paid Service is directly responsible or a person who, with respect to all or most of the duties of their post, is required to report directly or is directly accountable to either the Head of Paid Service or to the Council itself or any Committee or

Sub-Committee of the Council; except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services;

1.1.11 “Deputy Chief Officer” means a person who, with respect to all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the Statutory or Non-Statutory Chief Officers; except a person whose duties are solely secretarial or clerical or are otherwise in the nature of support services;

1.1.12 “Joint Senior Staff Committee” means a Committee set up in accordance with the Adur District Council and Worthing Borough Council Joint Committee Agreement dated 27th July 2007, as amended from time to time. For the purposes of these Procedure Rules, at least one Member of the Executive of each Council must be a Member of this Committee.

1.2 General

Other than as set out elsewhere in these Officer Employment Procedure Rules, the function of recruitment, appointment, disciplinary action and dismissal in respect of all staff other than the Head of Paid Service, the Chief Finance Officer, and the Monitoring Officer, will be discharged, on behalf of the Council, by the Head of Paid Service or an Officer nominated by the Head of Paid Service. Such functions will be carried out in accordance with the Council’s Staffing Policies, as adopted from time to time.

1.3 Posts

For ease of reference, the posts which fall under the relevant definitions in these Officer Employment Procedure Rules, at the time of writing, are as follows:

| Definition | Relevant Post |
|------------------------------|--|
| Head of Paid Service | Chief Executive |
| Statutory Chief Officer | Chief Finance Officer |
| Monitoring Officer | Solicitor to the Council |
| Non-Statutory Chief Officers | Directors Head of Communications Head of Policy |
| Deputy Chief Officers | All staff, other than clerical, who are direct reports of: Directors Chief Finance Officer Head of Communications Head of Policy |

2.0 RECRUITMENT

2.1 Declarations

A candidate for any employment with the Council, or a staff member involved in a transfer, promotion or disciplinary matter, shall disclose whether he/she is related to, or cohabits with, any Member or other Officer who may have an influence on the

decision. Failure to make such a disclosure may result in any appointment being rescinded and, in the case of an employee, disciplinary action.

The requirements of any Code of Conduct relating to Members' interests shall apply to the appointment, transfer, promotion, discipline and other matters relating to staff.

2.2 Support for Appointment

Canvassing of any Member of the Council, or any person appointed to discharge any function in relation to a Committee or Officer of the Council shall disqualify the candidate concerned in such canvassing for that appointment. The purport of this paragraph shall be included in any form of application issued in relation to any proposed appointment.

A Member of the Council shall not solicit for any person any appointment under the Council and shall not provide any written testimonial of a candidate's ability, experience or character for submission to the Authority.

All vacancies on the Council's staffing establishment that are to be filled shall be advertised internally.

2.3 Confidentiality

The Council, the Cabinet, a Committee, a Sub-Committee or a Panel shall, unless there are exceptional circumstances which dictate otherwise, resolve to exclude the press and public under Section 100A of the 1972 Act where matters relating to the appointment, promotion, dismissal or discipline, severance, salary or conditions of an individual member of staff are to be discussed.

2.4 Recruitment of Head of Paid Service, Statutory Chief Officer, Non-Statutory Chief Officers, Deputy Chief Officers and Monitoring Officer.

2.4.1 Where the Council proposes to appoint a Head of Paid Service, Monitoring Officer, Statutory Chief Officer, Non-Statutory Chief Officer or Deputy Chief Officer, and it is not proposed that the appointment will be made exclusively from among their existing Officers, the Head of Paid Service or his delegate will:

- (a) draw up a statement specifying:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) advertise the post in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) send a copy of the statement mentioned in paragraph (a) above to any person on request.

2.4.2 Where a post has been advertised as provided in paragraph 2.4.1, the Joint Senior Staff Committee or Head of Paid Service, or his delegate, in accordance with paragraph 3 below, will:

- (a) interview all qualified applicants for the post; or
- (b) select a short list of such qualified applicants and interview those included on the short list; or
- (c) if no qualified person has applied, the Council will make further arrangements for advertisement in accordance with paragraph 2.4.1(b).

3.0 APPOINTMENT

3.1 Power to Appoint

3.1.1 Subject to paragraph 3.1.2 and 3.2 below, the Joint Senior Staff Committee will be responsible for the function of the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer.

3.1.2 The power to approve the appointment of the Head of Paid Service, Chief Finance Officer and Monitoring Officer shall be exercised by Full Council, subject to the consultation required under paragraph 3.2.2 where, for the purposes of this paragraph, “the Committee” is to be read as “Full Council”.

3.1.3 The Head of Paid Service, or his nominated representative, shall be responsible for the function of the appointment of Non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service’s nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence.

3.2 Consultation Procedure for Appointment

3.2.1 Except as provided for in paragraph 3.1.2, paragraph 3.2.2 applies to the appointment of Non-Statutory Chief Officers and Deputy Chief Officers.

3.2.2 An offer of appointment to any of those Officers must not be made by the Appointor until:

- (a) The Appointor has notified the Monitoring Officer of the name of the person to whom the Appointer wishes to make the offer and any other particulars which the Appointor considers are relevant to the appointment, including evidence and reasons for the choice of preferred candidate;
- (b) The Monitoring Officer has notified every Member of the Executive of the Council of:

- (i) the name of the person to whom the Appointor wishes to make the offer, and the reasons why they are the Appointor's preferred candidate, including evidence;
 - (ii) any other particulars relevant to the appointment which the Appointor has notified to the Monitoring Officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the Executive Leader on behalf of the Executive to the Monitoring Officer; and
- (c) either:
- (i) the Executive Leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the Monitoring Officer that neither he nor any other Member of the Executive has any objection to the making of the offer; or
 - (ii) the Monitoring Officer has notified the Appointor that no objection was received by him within that period from the Executive Leader; or
 - (iii) the Appointor is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

3.3 Appointment of Senior Officers

| Post | Appointment | Conditions |
|------------------------------|---|--|
| Head of Paid Service | Joint Senior Staff Committee | Requires approval of Full Council |
| Chief Finance Officer | Joint Senior Staff Committee | Requires approval of Full Council |
| Monitoring Officer | Joint Senior Staff Committee | Requires approval of Full Council |
| Non-Statutory Chief Officers | Head of Paid Service, or Officer nominated by him | Requires consultation with the Executive |
| Deputy Chief Officers | Head of Paid Service, or Officer nominated by him | Requires consultation with the Executive |

4.0 DISCIPLINARY ACTION

4.1 Investigation of alleged misconduct

- 4.1.1 This paragraph applies to Disciplinary Action in respect of the Head of Paid Service, Statutory Chief Officer, Monitoring Officer, Non-Statutory Chief Officers and Deputy Chief Officers, subject to the express provisions in paragraph 4.2 relating to the Head of Paid Service, Monitoring Officer and Statutory Chief Officer.
- 4.1.2 Subject to paragraph 4.2 the Joint Senior Staff Committee will investigate and consider any alleged misconduct in respect of the Head of Paid Service, Chief Finance Officer and Monitoring Officer, and decide, following receipt of the report of the Independent Panel, upon any Disciplinary Action to be taken, as necessary, in accordance with any Council Staffing Policies which have been adopted by the Council from time to time.
- 4.1.3 Subject to paragraphs 4.1.2 and 4.2, the Head of Paid Service or his nominated representative, will investigate any alleged misconduct in respect of Non-Statutory Chief Officers and Deputy Chief Officers, as necessary, in accordance with any Council Staffing Policies which have been adopted by the Council from time to time. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Pending the outcome of such investigation the Non-Statutory Chief Officer or Deputy Chief Officer may be suspended by the Head of Paid Service or his nomination representative. Such suspension will be for no longer than is necessary to investigate the allegations and will be on full pay, other than in exceptional circumstances.

4.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

- 4.2.1 The Council's Head of Paid Service, Monitoring Officer and Chief Finance Officer cannot be dismissed by the Authority unless the procedure set out in paragraph 4.2 is complied with.
- 4.2.2 Where an allegation of misconduct in respect of the Head of Paid Service, Monitoring Officer or Chief Finance Officer requires an investigation, an Independent Panel will be formed for this purpose.
- 4.2.3 Pending the report of such an Independent Panel the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer may be suspended by the Joint Senior Staff Committee whilst the alleged misconduct by the Officer is investigated. Any such suspension will be for a maximum period of two calendar months and will be on full pay.

- 4.2.4 In consulting an Independent Panel to deal with such allegations of misconduct, the Joint Senior Staff Committee will invite Independent Persons who have been appointed for the purposes of the Members' Conduct Regime under Section 28(7) of the Localism Act 2011 to form an Independent Panel. An Independent Panel will be formed if two or more Independent Persons accept the invitation. If it has not been possible to appoint such a Panel following invitations to the Council's appointed Independent Persons, then further invitation may be made to Independent Persons appointed by another Council.
- 4.2.5 The role of the Independent Panel is to:-
- (a) Investigate the alleged misconduct;
 - (b) Prepare a report setting out the conclusions of their investigation, and any advice, views or recommendations as to any proposed disciplinary or other action, including dismissal.
- 4.2.6 In carrying out their investigation the Panel may:-
- (a) Inspect any documents relating to the conduct of the relevant Officer which are in the possession of the Council, or which the Council has the power to authorise them to inspect; and
 - (b) Require any member of staff or Member of the Council to answer questions concerning the conduct of the relevant Officer.
- 4.2.7 If the recommendation of the Independent Panel is disciplinary action, other than dismissal, the Panel will report back to the Joint Senior Staff Committee who will consider the report and may impose disciplinary action other than dismissal.
- 4.2.8 Where the independent Panel recommends dismissal, or the Joint Senior Staff Committee recommends dismissal, the matter must be dealt with by a meeting of the Full Council. At least 20 working days after the Independent Panel has been appointed, a meeting of each Full Council (Adur District Council and Worthing Borough Council) will be held.
- 4.2.9 The Council Meeting must receive the report of the Independent Panel. Before taking a vote at such a Council Meeting on whether or not to approve such a proposed dismissal, the Council must take into account:
- (a) Any advice, views or recommendations of the Panel;
 - (b) The conclusions of any investigation into the alleged misconduct;
 - (c) Any representations from the relevant Officer, or their representative.
- 4.2.10 A Head of Paid Service, Chief Finance Officer or Monitoring Officer attending a Council Meeting where proposed disciplinary action against them is being considered, is entitled to make both verbal and written representations to Council, as is their representative, who may be a colleague, a Union representative, a companion or a Lawyer.

4.3 Disciplinary Action of Senior Officers

| Post | Investigation | Notes | Appeal |
|------------------------------|--|--|--|
| Head of Paid Service | Independent Panel who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal. | Decision to dismiss must be taken by Council | None |
| Chief Finance Officer | Independent Panel who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal. | Decision to dismiss must be taken by Council | None |
| Monitoring Officer | Independent Panel who presents findings to Joint Senior Staff Committee who have the power to impose disciplinary action other than dismissal. | Decision to dismiss must be taken by Council | None |
| Non-Statutory Chief Officers | Head of Paid Service or his representative | Decision to dismiss may only be taken following consultation with the Executive. | Head of Paid Service or his representative |
| Deputy Chief Officers | Head of Paid Service or his representative | Decision to dismiss may only be taken following consultation with the Executive. | Head of Paid Service or his representative |

5.0 DISMISSAL

5.1 Power to Dismiss

5.1.1 Full Council will be responsible for the function of dismissal of the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer.

5.1.2 Subject to paragraph 5.2, the Head of Paid Service, or a representative nominated by him, shall decide upon any disciplinary action to be taken, following a disciplinary hearing, and shall be responsible for the function of dismissal of Non-Statutory Chief Officers and Deputy Chief Officers. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative may not be the same individual responsible for the investigation into alleged misconduct as identified at paragraph 4.1.3 and must be wholly independent from that individual.

5.2 Consultation Procedure for Dismissal

5.2.1 Paragraph 5.2.2 applies to the dismissal of the Non-Statutory Chief Officers and Deputy Chief Officers.

5.2.2 Notice of the dismissal of any of those Officers in paragraph 5.2.1 must not be given by the Dismissor until:

(a) the Dismissor has notified the Monitoring Officer of the name of the person whom the Dismissor wishes to dismiss and any other particulars which the Dismissor considers are relevant to the dismissal, including a summary of the evidence heard at the disciplinary hearing and the reasons for the proposed decision;

(b) the Monitoring Officer has notified every Member of the Executive of the Council of:

(i) the name of the person whom the Dismissor wishes to dismiss and the reasons for the decision;

(ii) any other particulars relevant to the dismissal which the Dismissor has notified to the Monitoring Officer; and

(iii) the period within which any objection to the dismissal is to be made by the Executive Leader on behalf of the Executive to the Monitoring Officer; and

(c) either:

- (i) the Executive Leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the Monitoring Officer that neither he/she nor any other Member of the Executive has any objection to the dismissal;
- (ii) the Monitoring Officer has notified the Dismissor that no objection was received by him/her within that period from the Executive Leader; or
- (iii) the Dismissor is satisfied that any objection received from the Executive Leader within that period is not material or is not well-founded.

5.3 Appeals

- 5.3.1 Non-Statutory Chief Officers and Deputy Chief Officers who feel that the outcome of Disciplinary Action against them is wrong or unjust may appeal in accordance with any relevant Council Staffing Policies to the Head of Paid Service or his nominated representative. The Head of Paid Service's nominated representative may include an Officer of the Council, of the appropriate level of seniority, or an external expert, provided that such representative shall have, in the opinion of the Head of Paid Service, the appropriate level of independence, knowledge, expertise and competence. Such nominated representative must not be the same individual responsible for the disciplinary action or the dismissal, identified at paragraph 5.1.2, and nor may they be the same individual responsible for the investigation of alleged misconduct identified at paragraph 4.1.3 and must be wholly independent from those individuals.
- 5.3.2 The Head of Paid Service, Chief Finance Officer and Monitoring Officer shall have no right of appeal against disciplinary action within the Councils.